

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIPPON SHINYAKU CO., LTD., Plaintiff,)	
)	
v.)	
)	C.A. No. 21-1015 (GBW)
SAREPTA THERAPEUTICS, INC.,)	
Defendant.)	
)	
SAREPTA THERAPEUTICS, INC.,)	
Defendant and Counter-Plaintiff, and)	
UNIVERSITY OF WESTERN)	
AUSTRALIA, Counter-Plaintiff)	
)	
v.)	
)	
NIPPON SHINYAKU CO., LTD., Plaintiff)	
and Counter-Defendant and)	
NS PHARMA, INC., Counter-Defendant.)	

**NIPPON SHINYAKU CO. AND NS PHARMA, INC.'S
REPLY LETTER BRIEF REGARDING DISCLOSURE OF
SAREPTA-DESIGNATED INFORMATION TO DR. MATTHEW J.A. WOOD**

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Counterclaim Defendant NS Pharma, Inc.*

Dated: August 14, 2023

Dear Judge Williams:

Prior to receiving Sarepta's response (D.I. 307) to NS's opening letter brief regarding disclosure of Sarepta-designated information to Dr. Matthew J.A. Wood (D.I. 300), NS was not aware that Sarepta and UWA held concerns regarding the disclosure of Protected Material to Dr. Wood based on his co-founding and service on the scientific advisory board of PepGen Inc. D.I. 307, *passim*. The only concerns expressed by Sarepta/UWA counsel to NS were based on Dr. Wood's prior [REDACTED] Sarepta itself. See June 2, 2023 Email (**Exhibit C**). Thus, NS was not aware that [REDACTED] or that Sarepta planned to object to Dr. Wood's service as an expert on that basis. NS did **not** intentionally omit discussion of Dr. Wood's ongoing involvement with PepGen from its opening letter brief in an attempt to obscure it from the Court. Cf. D.I. 307 at 2.

After becoming aware of Sarepta/UWA's concerns based on Dr. Wood's relationship for PepGen and accepting as true Sarepta/UWA's representations on the factual underpinnings of their concerns,¹ NS met and conferred with Sarepta. NS proposed to limit Dr. Wood's access to Sarepta/UWA Protected Materials to the documents voluntarily [REDACTED] [REDACTED] produced by Sarepta. Most of these documents [REDACTED] [REDACTED], and all were produced by or originated [REDACTED] [REDACTED] None include any testing or identification of an antisense oligonucleotide with golodirsen's nucleic acid sequence. NS's proposal therefore should resolve Sarepta's concerns about Dr. Wood having access to Sarepta's "proprietary research and development approaches . . . strategic objectives, and sensitive financial information." D.I. 307 at 3.

Sarepta/UWA rejected this proposal, citing the grounds raised in their letter brief seeking disqualification of Dr. Wood altogether (D.I. 300). However, if the Court finds that Sarepta/UWA have failed to meet their burden in seeking to disqualify Dr. Wood as NS argues (D.I. 308, 309, 313), NS respectfully submits that the Court should not preclude Dr. Wood from receiving the limited set of Protected Materials proposed by NS based on his involvement with PepGen.²

Respectfully submitted,

/s/ Amy M. Dudash

Amy M. Dudash (DE Bar No. 5741)

¹ NS notes that PepGen's two lead programs are directed to exon 51 skipping and a treatment of myotonic dystrophy type 1, not exon 53 skipping treatments for Duchenne Muscular Dystrophy. **Exhibit D.**

² UWA produced additional documents after NS made its proposal. If any of those documents concern or reflect work done by Dr. Wilton, his laboratory, or the other named inventors, NS would revise its proposal to include such documents.